



**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JULIO CÉSAR NAVAS,

Petitioner,

vs.

JAMES BACA, *et al.*,

Respondents.

3:10-cv-00647-ECR-RAM

ORDER

This habeas matter under 28 U.S.C. § 2254 comes before the Court on petitioner's application (#1) to proceed *in forma pauperis*, his motion (#3) for a writ of habeas corpus, and his motion for appointment of counsel submitted with the petition.

On the application to proceed *in forma pauperis*, the Court finds that petitioner is unable to pay the \$5.00 filing fee, and the application therefore will be granted.

The motion for a writ of habeas corpus will be denied. The Clerk advised petitioner when the case was filed that it could take several weeks to reach the petition for screening.

Following review of the counsel motion and accompanying papers, the Court finds that the interests of justice warrant the appointment of counsel, in light of: (a) the minimum consecutive sentence of thirty years imposed with a likely start date in or around 2003 as compared to petitioner's current age of approximately 73 years as reflected by the NDOC website; (b) the possibility that – depending upon the status of the proceedings in the state courts – there may be time remaining in the federal one-year limitation period for the assertion of claims; (c) the presentation of a competency issue on direct appeal, as reflected by the

1 unpublished decision in *Navas v. State*, 2008 WL 6113399, 238 P.3d 841 (Nev., Dec. 12,
2 2008)(table); (d) the number and complexity of the potential claims and procedural issues;
3 and (e) the degree of ability demonstrated by petitioner to adequately articulate cogent claims
4 in the papers presented.

5 The Court emphasizes -- given the scope of the request presented in the motion for
6 appointment of counsel and the allegations of the petition -- that the appointment extends only
7 to proceedings related to this matter that challenge petitioner's judgments of conviction.
8 Counsel is not being appointed to pursue claims for damages, civil rights claims, divorce or
9 other family law matters, immigration matters, bankruptcy matters, or any matter other than
10 a challenge to petitioner's convictions and sentences. The counsel appointed otherwise will
11 represent petitioner in all proceedings related to this matter, including any appeals or *certiorari*
12 proceedings, unless allowed to withdraw.

13 IT THEREFORE IS ORDERED that the application (#1) to proceed *in forma pauperis*
14 is GRANTED such that petitioner will not be required to pay the \$5.00 filing fee.

15 IT FURTHER IS ORDERED that the motion (#3) for a writ of habeas corpus is
16 DENIED.

17 IT FURTHER IS ORDERED that the Clerk of Court shall file the petition and
18 accompanying motion for appointment of counsel, that the motion for counsel is GRANTED,
19 and that the Clerk shall reflect in the docket entry for the motion that the motion is granted by
20 this order.¹

21 IT FURTHER IS ORDERED that the Federal Public Defender for the District of Nevada
22 shall have thirty (30) days to undertake direct representation of the petitioner or to indicate
23 to the Court her office's inability to represent the petitioner in these proceedings. If the
24 Federal Public Defender is unable to represent petitioner, the Court then shall appoint
25 alternate counsel. A deadline for the filing of an amended petition will be set after counsel
26

27 ¹The filing of the petition does not signify that either the petition or the claims therein otherwise are
28 free of deficiencies.

1 has filed a notice of appearance, in the order confirming the specific appointment. The Court
2 anticipates setting the deadline for 150 days based upon the current record.

3 IT FURTHER IS ORDERED, so that the respondents may be electronically served with
4 any amended petition and exhibits filed through counsel, that the Clerk of Court shall add
5 Attorney General Catherine Cortez Masto as counsel for respondents and shall make informal
6 electronic service of this order upon respondents by directing a notice of electronic filing to
7 her. Respondents' counsel shall enter a notice of appearance herein within twenty (20) days
8 of entry of this order, but no further response shall be required from respondents until further
9 order of this Court.

10 The Clerk of Court accordingly shall send a copy of this order (together with
11 attachments containing a copy of the petition, the motion for appointment of counsel, and the
12 motion for a writ of habeas corpus) to the *pro se* petitioner, the Attorney General, the Federal
13 Public Defender, and the CJA Coordinator for this Division.

14 DATED: *November 23, 2010*

15
16
17 
18 EDWARD C. REED
United States District Judge